

Return Date: April 21<sup>st</sup>, 2009  
Time: 1:30 P.M.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

**LAURA COLACCI,**

Chapter 13  
Case No. 08-35326 CGM

**NOTICE OF MOTION**

Debtor(s)

----- -X

**PLEASE TAKE NOTICE**, that upon the annexed application of Jeffrey

L. Sapir, the Chapter 13 Trustee herein, a motion will be made before the Hon. Cecelia G. Morris, United States Bankruptcy Judge, at the United States Courthouse, located at 355 Main Street, Poughkeepsie, New York, on the 21<sup>st</sup> day of April, 2009 at 1:30 P.M. for an order dismissing the Chapter 13 case pursuant to 11 U.S.C. §1307(c)(6) on the ground that there has been a material default with respect to the confirmed plan that is prejudicial to creditors in that payments called for under the plan have not been made; and for such other and further relief as this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE**, that answering papers, if any, are to be served on the undersigned and filed with the Court no later than three (3) days prior to the return date of this motion, and must comply with the Bankruptcy Court's electronic filing system in accordance with General Order M-242 and Supplemental General Order M-269.

Dated: White Plains, New York  
March 13<sup>th</sup>, 2009

/s/ Jeffrey L. Sapir  
**Jeffrey L. Sapir (JLS 0938)**  
**Chapter 13 Trustee**  
**399 Knollwood Road**  
**White Plains, New York 10603**  
**Chapter 13 Tel. 914-328-6333**

**TO:** United States Trustee  
74 Chapel Street  
Albany, New York 12207

Laura Colacci  
10 Mari Road  
Chester, New York 10918

Simon Haysom, Esq.  
One Railroad Avenue  
P.O. Box 487  
Goshen, New York 10924

Mark S. Nash, Sr. Ass't. County Attorney  
County of Orange  
255 Main Street  
Goshen, New York 10924

IndyMac Bank, FSB  
460 Sierra Madre Villa # 101  
Pasadena, California 91107

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13

Case No. 08-35326 CGM

**LAURA COLACCI,**

**APPLICATION**

Debtor(s)

-----X

**TO THE HON. CECILIA G. MORRIS, BANKRUPTCY JUDGE:**

1. The debtor filed the instant voluntary Chapter 13 proceeding on February 26<sup>th</sup>, 2008.

2. An order confirming the plan was signed by the Hon. Cecilia G. Morris United States Bankruptcy Judge on August 14<sup>th</sup>, 2008, which order provided that the debtor remit monthly payments of \$400.00 for 6 months and \$863.00 for 54 months

3. The debtor has paid the trustee the sum of \$2,000.00 to date.

4. The debtor is in arrears in plan payments to the trustee in the amount of \$5,578.00.

5. There has in fact been a material default in this confirmed plan.

6. This Chapter 13 case should be dismissed pursuant to 11 U.S.C. §1307

( c)(6) together with such other and further relief as this Court may deem just and proper.

Dated: White Plains, New York  
March 13<sup>th</sup>, 2009

/s/ Jeffrey L. Sapir  
**Jeffrey L. Sapir**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13  
Case No. 08-35326 CGM

**LAURA COLACCI,**

Debtor(s)

-----X

**AFFIDAVIT OF MAILING**

STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER        ) ss.:

Lois Rosemarie Esposito, being duly sworn, deposes and says:

I am not a party to the action herein, I am over the age of 18 years and  
reside in the County of Westchester, State of New York.

On March 13<sup>th</sup>, 2009 I served a true copy of the within document, to the  
herein listed parties at the address(es) designated for that purpose, by mailing same in a  
properly sealed envelope with postage prepaid thereon, in an official depository of the  
United States Postal Service within the State of New York to the following:

**TO::** United States Trustee  
74 Chapel Street  
Albany, New York 12207

Laura Colacci  
10 Mari Road  
Chester, New York 10918

Simon Haysom, Esq.  
One Railroad Avenue  
P.O. Box 487  
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Mark S. Nash, Sr. Ass't. County Attorney  
County of Orange  
255 Main Street  
Goshen, New York 10924

IndyMac Bank, FSB  
460 Sierra Madre Villa # 101  
Pasadena, California 91107

/s/ Lois Rosemarie Esposito  
Lois Rosemarie Esposito

Sworn to before me this  
13<sup>th</sup> day of March, 2009

/s/ Jeffrey L. Sapir  
Jeffrey L. Sapir  
Notary Public, State of New York  
No. 60-8764500  
Qualified in Rockland County  
Cert. Filed in Westchester County  
Term Expires: 12/31/10

